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I N D E X

<u>Witnesses:</u>	<u>Dir.</u>	<u>Crx.</u>	Re- <u>dir.</u>	Re- <u>crx.</u>	By <u>Examiner</u>
NONE					

E X H I B I T S

<u>APPLICANT'S</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
NONE		

1 JUDGE RILEY: Pursuant to the direction of
2 the Illinois Commerce Commission, I call
3 Docket 10-0177. This is a complaint by Sean Davis
4 versus Commonwealth Edison Company as to billing and
5 charges in Spring Grove, Illinois.

6 And, Mr. Davis, you are, at this
7 point, proceeding without an attorney, is that
8 correct?

9 MR. DAVIS: Yes.

10 JUDGE RILEY: And, Mr. Goldstein, would you
11 enter an appearance for the record.

12 MR. GOLDSTEIN: Yes.

13 On behalf of Commonwealth Edison
14 Company, Mark L. Goldstein, 3019 Province Circle,
15 Mundelein, Illinois 60060. My telephone number is
16 847-949-1340.

17 I have with me today Monica Merino of
18 ComEd.

19 JUDGE RILEY: Thank you.

20 And, Mr. Davis, from what I can gather
21 from your complaint, this all started a couple of
22 years ago when a new meter was installed on a

1 building?

2 MR. DAVIS: Yes, sir.

3 JUDGE RILEY: Now, is this your home address

4 you're talking about?

5 MR. DAVIS: No, it's my business.

6 JUDGE RILEY: Your business.

7 MR. DAVIS: Yes.

8 JUDGE RILEY: And is that the one in

9 Spring Grove?

10 MR. DAVIS: Right.

11 JUDGE RILEY: You said that it was a -- when a

12 new meter was installed -- when ComEd changed the

13 meter a couple of years ago, it was clearly running

14 slower than the original.

15 MR. DAVIS: Very clearly. Clearly enough that

16 even the installer agreed that it was running much

17 slower, the line across that shows the usage amount.

18 There's like a little digital line that runs across.

19 JUDGE RILEY: Okay.

20 MR. DAVIS: And the installer noticed that it

21 was running slower too and agreed to that.

22 JUDGE RILEY: Wouldn't that be to your

1 advantage, though?

2 MR. DAVIS: Oh, yes, absolutely.

3 But what my complaint is, is what
4 about the year and a half that I had the old meter
5 on there that was overcharging me, 135 is what I
6 got, from the bill that I got -- the following bill
7 for the month after the new one was installed was
8 \$135 lower than the previous bill with the old --

9 JUDGE RILEY: So you're saying that you were
10 overbilled prior to the time of the new meter.

11 MR. DAVIS: Correct.

12 JUDGE RILEY: Do you know how long that the old
13 meter had been billing you -- had been overbilling
14 you?

15 MR. DAVIS: Approximately 18 months.

16 JUDGE RILEY: And do you have any idea how much
17 is involved -- how much money?

18 MR. DAVIS: From my figures it was about \$2,880.

19 JUDGE RILEY: Do you remember, specifically,
20 what date the new meter was installed? Was that
21 April 17, '08?

22 MR. DAVIS: Yeah, I believe so. It's on the

1 paperwork. It actually has the new meter right on
2 the paperwork, it says, New meter was put in.

3 JUDGE RILEY: So going back to about October of
4 '06, actually --

5 MR. DAVIS: Yeah.

6 JUDGE RILEY: -- you were even overbilled from
7 that time.

8 MR. DAVIS: Correct.

9 Basically, what I'm trying to get at
10 here is to get that taken off, whatever late fees
11 and things like that, that were charged to me for
12 not paying or whatever, and a payment plan for, at
13 least, 18 months to pay back whatever difference it
14 may have been, that I do owe.

15 You know, I'm not saying I don't owe
16 them anything. But I'm just trying to be treated
17 fairly here. And also get some help from them
18 because I just think that the new meter -- the
19 building that I have is 106 years old. And I just
20 think the new meters are just too modern for this
21 type of building. I think that they're still --
22 still a very high bill that I'm getting for electric

1 there in comparison, like, my house, for instance,
2 which is twice as big as the business and the bill
3 is almost three times less than it is at the
4 business.

5 Yes, I understand there are things
6 running a little bit more there and stuff like that.
7 I understand it should be somewhat higher, but not
8 three times higher.

9 JUDGE RILEY: What is the sum of money that they
10 want from you now?

11 MR. DAVIS: Well, now, it's up to, like,
12 \$11,000. But I think if you take off the 2880 and
13 all the late charges and all those fees, it's more
14 like -- probably like 5000 I owe them.

15 And I am also wondering if there's a
16 way -- I don't know if they still use the old meters
17 or anything like that -- if there's a way I can get
18 an older meter on the building, maybe that would
19 help with --

20 JUDGE RILEY: Did you, at any time, request that
21 ComEd come out and do any kind of an audit or any
22 kind of a technical --

1 MR. DAVIS: Yes.

2 JUDGE RILEY: -- test to gauge the accuracy of
3 the meter?

4 MR. DAVIS: Yes, a couple of times. And they
5 told me that the new meters were more precise and
6 that that's what they use now. And that's basically
7 what I was told.

8 JUDGE RILEY: Okay.

9 Mr. Goldstein, what is ComEd's
10 position now?

11 MR. GOLDSTEIN: The position is simple. Every
12 reading that was ever taken by the meter, whether it
13 was the old meter, the new meter, the meter readings
14 are very consistent over time. They are all based
15 on regular readings. The old meter tested within
16 the Commission guidelines.

17 I would just be interested in finding
18 out what kind of business Mr. Davis has in
19 Spring Grove.

20 MR. DAVIS: It's a bar.

21 MR. GOLDSTEIN: That's what I thought.

22 And the bar has -- it's an old

1 building, Judge, with -- how many coolers do you
2 have in the bar? Four, isn't it?

3 MR. DAVIS: It's a bar -- it's only a bar on the
4 first floor, it's a two-story building. There's an
5 apartment upstairs. People have lived there
6 periodically, they're not there now. It's mainly
7 just a bar downstairs.

8 MR. GOLDSTEIN: But you have coolers for the
9 beverages, don't you?

10 MR. DAVIS: I have one cooler in the front for
11 beverage. I have a refrigerator, which is a
12 standard home refrigerator. I have a walk-in
13 cooler, which the compressor is not working on, so
14 it's really just a storage cooler. It's not cooling
15 in there at all and hasn't been for almost two years
16 now.

17 JUDGE RILEY: Is the account for the bar, is
18 that in the name of the bar or is it in your
19 personal name?

20 MR. DAVIS: It's in both.

21 JUDGE RILEY: Okay.

22 MR. DAVIS: It's a very small place. It's not a

1 big sports bar or anything like that. It's a little
2 neighborhood bar on the corner. It's probably --
3 the main floor is maybe a thousand square feet.

4 JUDGE RILEY: Okay.

5 MR. GOLDSTEIN: I think we ought to point out
6 one more thing, Judge, that this is a business, it's
7 a commercial establishment. He's being served by
8 what's called a cumulative demand meter. It's not
9 the same kind of meter that one would have in one's
10 home. The rates are much higher to serve a
11 business, obviously, than a residential customer.

12 JUDGE RILEY: What kind of meter did you say it
13 was?

14 MR. GOLDSTEIN: Cumulative demand.

15 MR. DAVIS: And what does that mean exactly?

16 MR. GOLDSTEIN: It serves -- it measures not
17 only the kilowatt hours but it also measures demand
18 over a period of -- small period of time during a
19 month and you're billed accordingly an extra charge.

20 That's the problem here, Mr. Davis.

21 MS. MERINO: And also all the reads --

22 THE REPORTER: I'm sorry.

1 JUDGE RILEY: Okay. Are we on the --

2 MS. MERINO: A side-bar with him. Could I talk
3 to him?

4 JUDGE RILEY: Let's -- for the benefit of
5 Mr. Davis, let's take it down.

6 MR. GOLDSTEIN: Whether we're talking about the
7 old meter or the new meter, not all the reads are
8 regular reads by the Company, they're all consistent
9 over time whether it's in 2006 or 2010. The
10 readings are relatively consistent over that 3- or
11 4-year period of time.

12 You know, obviously, we can put
13 Mr. Davis, I guess, on some kind of payment plan.

14 MR. DAVIS: Just to make a note, I've been
15 asking for that for years from you guys and I've
16 never got any type of response, Yes, we can help you
17 out, or anything like that with this issue of --
18 it's just like -- a very high bill. That's what
19 I've been trying to work out with ComEd.

20 MR. GOLDSTEIN: How long have you owned this
21 business at this location, Mr. Davis?

22 MR. DAVIS: A little over three years. I bought

1 it November 2006, early November, November 2nd.

2 And just not to, like, bring up
3 anything in the past, but I know the previous owner
4 and he had lots of electric power issues with high
5 bills and things like that, too.

6 MR. GOLDSTEIN: Well, from what I can see,
7 Mr. Davis, in 2008, you made exactly 2 payments on
8 your electric bill; in 2009, you made --

9 MR. DAVIS: Yes, I can --

10 MR. GOLDSTEIN: -- 7 payments on your electric
11 bill and you've only made 1 payment this year. It's
12 sort of difficult to assist you when you're not
13 making regular payments on your bill.

14 MR. DAVIS: Right, and can I explain why that
15 is?

16 JUDGE RILEY: Go ahead.

17 MR. DAVIS: My reasoning is because I just have
18 felt that I've been paying lots of money to not --
19 which the bill is not correct and I'm continually
20 overpaying you guys. And that's why I've just been
21 waiting to find out what's going to happen and what
22 we can do because -- I do want to pay. I'm not

1 trying to not pay you guys or anything like that. I
2 want to be up to date with you and just have
3 everything right and not have to worry about the
4 electric bill all the time.

5 MR. GOLDSTEIN: From what we can see, Judge, the
6 bills are not high. The coolers that he has there
7 and the refrigeration are sucking up a lot of
8 current and he's using the electricity. He's not
9 making regular payments.

10 I don't know what else to do for him.

11 JUDGE RILEY: And I heard you earlier mention
12 something about a payment plan.

13 MR. GOLDSTEIN: I guess there could be some kind
14 of payment plan, but we'd have to check with the
15 Company about that.

16 JUDGE RILEY: Okay.

17 MR. GOLDSTEIN: But that's about the best I can
18 do for him.

19 JUDGE RILEY: Okay. And it's my understanding
20 that ComEd isn't, at least, willing to waive any of
21 the charges that are due?

22 MR. GOLDSTEIN: That's correct.

1 MS. MERINO: If he makes a good faith attempt to
2 make some type of payment towards the \$10,000 that
3 he owes right now on his bill, you know, I'll be
4 happy to remove the late fees and put him on a
5 12-month payment plan. Our DPAs are only for 12
6 months.

7 JUDGE RILEY: Okay.

8 MS. MERINO: But he has to make a good faith
9 attempt for me to go back to the Company and say,
10 you know, that he is going to move forward to make
11 his bills.

12 JUDGE RILEY: Okay. What is a good faith
13 attempt?

14 MS. MERINO: Some type of down payment towards
15 the DPA, right?

16 MR. DAVIS: What I did -- I'm willing to -- I
17 can pay \$1,000 today or as soon as possible. And I
18 did -- when I spoke to -- before when you put me on
19 a 3-month payment plan -- I forget the lady's
20 name -- Kita Dorsy -- I paid, I believe, \$1,000 at
21 that time and then you wanted me to pay \$3,000 --
22 almost \$4,000 a month to pay it off, the rest of it,

1 and that's impossible.

2 MR. GOLDSTEIN: I only show one payment made
3 this year, Mr. Davis, for \$700. Is that an error?

4 MR. DAVIS: Yeah. I believe I paid \$1,000.

5 MR. GOLDSTEIN: I'm talking about this year.

6 MR. DAVIS: No, it was in 2008 -- I'm sorry,
7 2009.

8 MS. MERINO: Just the lack of consistency of
9 making payments on the bill, it's hard for me to go
10 back and put myself on the line and say that, you
11 know, we're going to a DPA and he defaults.

12 MR. GOLDSTEIN: I guess we can talk to
13 Mr. Davis about how much money he would have to come
14 up with in order to get on a deferred payment
15 arrangement, Judge.

16 JUDGE RILEY: Okay. Do you want to do that with
17 me out of the room right now.

18 MR. DAVIS: I just have one more question.

19 JUDGE RILEY: Sure.

20 MR. DAVIS: The 2880 that I was -- agreed with
21 one of their managers on the phone, I don't have his
22 last name, but it was -- Javier was his first name,

1 and he was a manager that I got after I spoke with
2 the regular people -- I guess you would call them
3 that, who answer the phone and whatnot -- and he
4 also agreed with me at the time that I was owed --
5 not owed, paid personally, but owed off the bill of
6 2880 when he saw the drop in usage the month
7 following the new meter being put on.

8 For some reason after that was
9 basically stated to me, I could no longer talk with
10 this gentleman, Javier. I was routed to corporate
11 people and things like that after that fact. And it
12 was never ever discussed again as far as me being
13 owed the 2880.

14 MS. MERINO: Yeah, and unfortunately, Mr. Davis,
15 I'm looking at the meter history with the usage,
16 it's clearly consistent throughout. It's a
17 progressive rate. And I do not see a spike or a
18 decline of the usage of the kilowatt hours.

19 MR. DAVIS: So when you go back to the previous
20 month to the installation of the new meter to the
21 month after the new meter was put in, you see no
22 discrepancy there.

1 MS. MERINO: Not really.

2 MR. DAVIS: Not really? What does that mean?

3 Because the bill that came to me was 130 -- \$134
4 lower the following month after the meter was put
5 on. And I did nothing to change anything after that
6 meter was put on or anything like that. Just the
7 following bill, after the meter was put on, was \$134
8 lower.

9 JUDGE RILEY: Now were these subsequent bills
10 all in that same range? Were they consistently
11 lower?

12 MR. DAVIS: Yeah, they've always been -- since
13 the new meter was put on, they've been -- it's
14 fluctuated because people moved in upstairs a couple
15 times, which there was more usage. I totally
16 understand that. But, at the time when the meter
17 was changed nobody was living upstairs.

18 JUDGE RILEY: Okay.

19 MS. MERINO: So he has a residential dwelling
20 that's sharing the meter with a commercial?

21 MR. GOLDSTEIN: Oh, my goodness.

22 MS. MERINO: That's another issue. That's a

1 no-no.

2 JUDGE RILEY: Mr. Davis, is the bar meter also
3 on the -- measuring the residential --

4 MR. DAVIS: Yes, one meter for the whole
5 building, which I also wanted to get changed but
6 they say I have to do that myself.

7 JUDGE RILEY: How would he do that himself?

8 MS. MERINO: He has to go get an electrician to
9 do a new fitting for the residential.

10 MR. DAVIS: \$2,000 is how much if I do it
11 myself.

12 JUDGE RILEY: So you'd -- he'd have to get an
13 electrician to do a fitting for the residential area
14 and then --

15 MS. MERINO: Right. So we can --

16 JUDGE RILEY: Okay. Wait.
17 So that ComEd could put the meter --
18 install the meter.

19 MS. MERINO: For the residential units.

20 JUDGE RILEY: Okay.

21 MS. MERINO: I think it's against the tariffs,
22 right, share a commercial meter with a residential

1 meter?

2 MR. GOLDSTEIN: They can just cut him.

3 Judge, to be honest with you, this is
4 a new one on me where a commercial and a residential
5 are sharing the same meter. It's got to be contrary
6 to ComEd's tariffs.

7 MS. MERINO: It is.

8 MR. GOLDSTEIN: And he's got to do that
9 immediately. I mean, there's no sense even talking
10 to him. Let's just set this for an evidentiary
11 hearing, maybe set it out a couple months. Give him
12 an opportunity to hire an electrician, do the work
13 he has to do.

14 He can negotiate with Ms. Merino,
15 perhaps, some terms to give him some relief here.

16 MS. MERINO: And you know what --

17 MR. GOLDSTEIN: This is insane. Every time we
18 start talking it gets worse and worse.

19 JUDGE RILEY: Ms. Merino, I can't have two
20 people talking at the same time.

21 MS. MERINO: Maybe when you de-combine the
22 meters, then you'll get lower bill because now

1 you'll have a residential meter that's only, you
2 know, collecting from the residential unit and then
3 you'll have the -- I'm just guessing, maybe that's
4 to his benefit.

5 JUDGE RILEY: It's my understanding that ComEd
6 is adamant about that the metering has to be
7 separated immediately.

8 MR. GOLDSTEIN: Oh, it must be.

9 MR. DAVIS: Okay. Well, how come -- I've only
10 had this place for three years, how come this was
11 never an issue previous to me?

12 MR. GOLDSTEIN: I don't know. I can't answer
13 that question, Judge, you know, at a status hearing.
14 We'd have to search to try to find that answer.

15 But, obviously, we're not prepared,
16 just finding out that one meter is serving both
17 residential and commercial. We just don't have an
18 answer for you today on that.

19 MR. DAVIS: You know, I've expressed this to
20 ComEd. They've known this for a while, at least, a
21 couple years that I've told them about this, so it's
22 nothing new.

1 JUDGE RILEY: Do you know who you spoke to?

2 MR. DAVIS: Kita Dorsy was one lady. That's the
3 first corporate lady I spoke with. And Javier was
4 the manager I spoke to before I got put up to the
5 corporate.

6 JUDGE RILEY: Okay. Then it's ComEd's position
7 that we should set this matter for hearing?

8 MR. GOLDSTEIN: And see if we can work something
9 out in the meantime.

10 JUDGE RILEY: All right.

11 MR. GOLDSTEIN: But it would seem to me, Judge,
12 that since this is a cumulative demand meter and
13 there's electricity being drawn from two locations,
14 just as a guess, I would say that if another meter
15 is put in, it would seem that the meter for the bar
16 would, obviously, require less and his bills would
17 be less at the bar.

18 JUDGE RILEY: Mr. Davis, you said that the
19 residential quarters have not been occupied
20 consistently since you've been there -- since you've
21 owned the place, is that correct?

22 MR. DAVIS: Right, not consistently. I've had

1 four tenants in three years and none of them have
2 stayed any longer than -- no one has even stayed a
3 year. It's been like six months here, four months
4 there.

5 JUDGE RILEY: Okay. Did you notice a decrease
6 in the usage when the tenants moved out?

7 MR. DAVIS: Yes.

8 JUDGE RILEY: Okay. Well, I think we've reached
9 an impasse on this. The residential aspect of this
10 thing has thrown -- opened up a new can of worms,
11 certainly with ComEd anyway.

12 Mr. Davis, you say you've been quoted
13 a cost of \$2,000 to get the residential separated
14 from the bar?

15 MR. DAVIS: Yes. And that's through an
16 electrician friend. That's not just calling up an
17 electrician and having him come out. So it was, you
18 know, a buddy of mine that was going to give me a
19 deal.

20 JUDGE RILEY: Okay. Well, the prudent thing to
21 do right now would be to set this matter for a
22 hearing and then see if there can't be some

1 accomodation worked out in the meantime between
2 ComEd and yourself.

3 Today is April 8 --

4 MR. DAVIS: Like I said, I believe this bill --
5 the last bill I got was about -- almost like 373 or
6 337 for the previous bill. I'm willing, like I
7 said, to pay -- I can pay a good faith payment of
8 \$1,000 to show that I am willing, you know, to
9 work -- and try to work this all out, if that would
10 help. I don't know.

11 JUDGE RILEY: Well, that would be a start.

12 MR. DAVIS: Yes.

13 Should I pay it direct or is there
14 someone I should specifically call there to make the
15 payment to or --

16 JUDGE RILEY: They're conferring right now.

17 MR. DAVIS: Okay.

18 MS. MERINO: Yeah, I'll be happy to work with
19 him. But, you know, it has to be a good faith
20 response back from the customer because I put myself
21 on the line when I do these things and then people
22 default on the DPAs. You have to really be

1 committed that you're going to make an attempt to
2 make those payments.

3 MR. GOLDSTEIN: Well, I think, Mr. Davis --

4 MR. DAVIS: Yes.

5 MR. GOLDSTEIN: -- you can contact Ms. Merino --

6 MR. DAVIS: Okay.

7 MR. GOLDSTEIN: -- we can provide you a direct
8 line contact.

9 MR. DAVIS: All right.

10 MR. GOLDSTEIN: If you have a pencil ready.

11 MR. DAVIS: Yes, I'm ready.

12 MS. MERINO: 312- --

13 MR. DAVIS: 312- --

14 MS. MERINO: -- 394- --

15 MR. DAVIS: -- 394- --

16 MS. MERINO: -- 3866.

17 MR. DAVIS: -- 3866. Ms. Merino?

18 MS. MERINO: Yep.

19 MR. DAVIS: And when would you like me to call
20 you?

21 MS. MERINO: Next week is fine. Monday.

22 MR. DAVIS: Monday next week. You got it.

1 JUDGE RILEY: Just to be on the safe side --

2 MR. DAVIS: Yes.

3 JUDGE RILEY: -- I want to set this matter down

4 for a hearing so we've got an agreed date to come

5 back and deal with this matter if it's not disposed

6 of otherwise.

7 Generally, I'm looking about a month

8 away. If the parties need more time, so advice.

9 And the only thing, Mr. Davis, is

10 if -- when we get to the evidentiary stage of the

11 proceedings, where there's sworn testimony and that

12 kind of thing, then you do have to appear in person.

13 MR. DAVIS: Okay.

14 JUDGE RILEY: Is there any particular day that's

15 particularly good for you?

16 MR. DAVIS: A Friday would be best.

17 JUDGE RILEY: Let's take a look at May 7, it's

18 just about a month.

19 MR. DAVIS: Okay. At what time?

20 JUDGE RILEY: 10:00 a.m.

21 MR. DAVIS: Pardon? I didn't hear that.

22 JUDGE RILEY: 10:00 a.m.

1 MR. DAVIS: 10:00 a.m., okay.

2 Okay. I have it down. Hopefully, we
3 can work something out previous to this. But I can
4 definitely make that one. My wife is home from work
5 that day to watch the children.

6 JUDGE RILEY: Okay. And I would advise you, as
7 the Complainant, it would be your burden to go
8 forward with your evidence first. So you will
9 testify first and produce any documentation you have
10 that could support your claim.

11 MR. DAVIS: Okay.

12 MR. GOLDSTEIN: And this is for evidentiary
13 hearing, Judge?

14 JUDGE RILEY: This is for evidentiary hearing.

15 And I urge the parties to do whatever
16 they can to work this out in the meantime.

17 If in the event that doesn't happen,
18 then we will reconvene at the offices of the
19 Commission on May 7 at 10:00 a.m. for an evidentiary
20 hearing.

21 And you'll be given a notice of that
22 date and time and the address.

1 MR. DAVIS: Okay.

2 JUDGE RILEY: So that will be sent to you by the
3 Clerk's Office well in advance of the hearing.

4 MR. DAVIS: Okay. Thank you. I appreciate you
5 going out of your way to help me out.

6 JUDGE RILEY: No problem.

7 Okay. We'll see how it works out.

8 MR. DAVIS: Thanks again.

9 (Whereupon, the hearing in
10 the above-entitled matter was
11 continued to May 7, 2010.)

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